HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
And
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

W.P. NO.8913 OF 2006

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Between:
Sri K.V.Narayana Reddy

..... Petitioner

AND

The Government of A.P. represented by its Secretary,
Industries & Commerce Department,
Secretariat Buildings, Hyderabad.
and 10 others.

.....Respondents

::JUDGMENT::

Counsel for the Petitioner : Sri Meherchand Nori

Counsel for Respondent Nos.1&2 : The Government Pleader For Industries and Commerce

Counsel for Respondent Nos.3&4 : Government Pleader for Revenue

Counsel for Respondent No. 5&6 : Government Pleader for Irrigation

Dated 17/8/2006

Per Sri G.S.Singhvi, CJ

This third round of litigation by the petitioner who is an Advocate by profession can appropriately be termed as an abuse of the process of the Court in the name of public interest litigation. The first petition filed by him seeking judicial intervention for shifting of the site of Sri Ramatheertham Balancing Reservoir on Ongole Branch Canal between Mile 16/5 + 330 and Mile 19/3 + 110 near Ramatheertham Village, Chimakurthy Mandal, Prakasam District, which was registered as Writ Petition No.16687 of 2004, was dismissed by the Division Bench on 21-9-2004 with the observation that the petitioner has rushed to the Court in hot-haste. The second writ petition filed by him for the same relief, which came to be registered as Writ Petition No.21172 of 2004, was dismissed by the Division Bench on 31-1-2005 with the following observations:

> "The reservoir is proposed to supplement the gap quantity of 2.59 TMC of water in order to bring the 70,000 Ac. Distressed ayadut I.D. crop cultivation. As the live storage of reservoir is 1.25 TMC and dead storage of the reservoir is 0.264 TMC, it is contemplated to fill the reservoir 2 times i.e. during the seed beds period and grown period of paddy where the requirement of water is at lowest level. During these two stages of lowest requirements excess water will be pushed into the balancing tank for using the same at peak periods.
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> There is no catchment area available for the reservoir, and the purpose to have the reservoir is to supplement the existing ayacut only. Under the scheme, there are small bunds to be constructed, namely, southern bund, the total

length of which is proposed about 1015 mtrs. with a maximum height of 12.44 mtrs., and western bund with maximum length of 1125 mtrs. and maximum height of 24.43 mtrs. The project report suggests the proposal to take care to incorporate seismic coefficient in the design, as the dam site falls in the seismic zone, and, before constructing the project, it was suggested to contact the Mines and Geology Department to know about the exstent of galaxy stone likely to be available in the submerged area. This report is dated January 2004. Thereafter, petitioner's representation was duly considered in November 2004 and was informed that decision has been taken not to relocate the site of the project, since after examining all pros and cons including technical aspects, the proposal is found to be viable and in larger public interest, particularly in the interests of the public in the surrounding area. In this view of the matter, we do not find any ground to interfere in the matter, more particularly, when the technical report, on which learned counsel for the petitioner has relied is not a report obtained by the Government, but, a report obtained by the four individual granite mine owners, at whose behest, the report was prepared. The writ petition, therefore, is dismissed. No costs."

Undeterred, the petitioner has filed this petition for restraining the respondents from implementing Sri Ramtheertham Balancing Reservoir Project by contending that construction of the reservoir will result in submersion of precious Galaxy Granite. He has relied on some report got prepared by those interested in undertaking mining of Galaxy Granite and averred that anticipated loss of more than 800 crores of revenue which the government is expected to generate by granting mining leases cannot be overlooked while constructing the reservoir. He has also relied on letter dated 23-12-2004 sent by Director of Mines and Geology to the Secretary to Government, Industries and Commerce Department, supporting his plea against the construction of Sri Ramatheertham Balancing Reservoir.

We have heard learned counsel for the parties and perused the record. In our opinion, in the name of public interest litigation, the petitioner is espousing the cause of the mining lobby which is apprehensive of the submersion of area having Galaxy Granite if the reservoir is constructed at the site in question. The petitioner has neither pleaded nor any evidence has been produced to show that he has any special interest in the matter of location/non-location of Sri Ramatheertham Balancing Reservoir at the site in question. Therefore, he cannot be heard to make a grievance in the matter of location of Sri Ramatheertham Balancing Reservoir. The mere fact that he had earlier filed two writ petitions cannot clothe the petitioner with the locus to challenge construction of the reservoir which is meant to benefit weaker segment of the society.

The litigious perseverance with which the petitioner has pursued the cause of the mining lobby is evinced from the fact that despite the unequivocal rejection of his plea in Writ Petition No.21172 of 2004, he has ventured to file this petition. The documents filed along with the writ petition do not directly concern the petitioner. He is not shown to have made any application to the competent public authority to issue certified or attested copies of the documents. Therefore, we can reasonably presume that he has procured those documents from the members of the mining lobby. In our considered view, the petitioner is not a bona fide public interest litigant and, as such, he is not entitled to any relief.

The following are the other reasons for our disinclination to entertain the petitioner's prayer:

1) Writ Petition No.21172 of 2004 filed by the petitioner was dismissed on merits. If he felt dissatisfied with the order of the Division Bench, then the petitioner should have pursued his

remedy by filing appeal before the Supreme Court. This is not shown to have been done. Therefore, order dismissing Writ Petition No.21172 of 2004 will be deemed to have become final and would operate as a bar to the maintainability of fresh petition on the same cause.

2) The petitioner has conveniently omitted to challenge the rejection of his representation by the competent authority of the Irrigation Department and, without nullifying the same, the Court cannot give any relief to him.

For the reasons mentioned above, the writ petition is dismissed.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

August 17, 2006
svs